IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.7108 OF 2005

IN

CRIMINAL REVISION APPLICATION NO.201 OF 2001

Shri Mahadev N. Kagwad and anr. ...Applicants

v/s

Union of India and anr. ...Respondents

Mr V.V. Purwant for Applicants.

Mr H.V. Mehta for Respondent No.1.

Mr S.S. Pednekar, A.P.P. for Respondent No.2.

CORAM : S.C. DHARMADHIKARI J.

DATE : 17TH NOVEMBER 2006.

P.C. :-

1. This application does not survive as by consent of parties, I have decided to take up main criminal revision application No.201 of 2001 for hearing and final disposal forthwith.

2. I am informed that the respondent No.1 (original accused No.2) has expired during the pendency of this revision application.

3. The revision application is directed against the interlocutory order passed by the Special Judge, Solapur on 15th November 2000 during the hearing of special case No.4 of 1996. The complainant was in the box and it appears that the application was given by the prosecution (C.B.I.) praying that the witness Mohammad Iqbal Mohammad Hanif Shiledar be declared hostile and the prosecution be allowed to cross-examine him.

4. This application was resisted by both the accused and by a detailed order, the Special Judge has rejected the same.

5. From perusal of the order passed by the Trial Court it appears to me that the request to declare the

witness hostile was in the context of the deposition and statements therein with regard to accused No.2 - Kagwad. Shri Kagwad having expired during the pendency of this revision application, in my opinion, no useful purpose will be served by going into the contentions of Shri Mehta appearing for applicants and Shri Purwant appearing for both the respondents.

6. The order in paragraph 10 records the reason for the prosecution seeking to declare the witness hostile and it is clear that the reason for seeking such a relief was the statement of witness Mohammad Iqbal having friendship with the accused No.2 Kagwad.

7. As I have held that no useful purpose will be served by going into rival contentions by subsequent death of accused No.2, revision application is disposed off. The Trial Court to take into account all these subsequent developments and pass appropriate orders on merits and in accordance with law. Needless to state that if the prosecution is aggrieved by the final order in the special case, it would be open for it to raise all contentions including those agitated during the pendency of the present revision application and neither the observations in the impugned order nor the conclusion therein would bar initiation of such proceedings as are permissible in law to challenge the

final order in the special case. The special case is pending since 1996. One of the accused has already expired. Shri Purwant submits that in the light of the death of the accused No.2 appropriate directions be issued to expedite the hearing of special case.

8. In the peculiar facts of this case and to subserve interest of justice, hearing of special case No.4 of 1996 is expedited. The learned Judge shall endeavour to dispose off it within a period of six months from today.